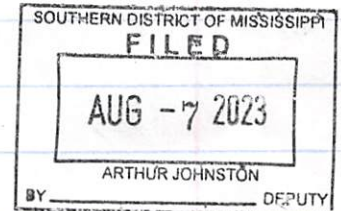


US A v. Pernillo

Memorandum in Support



1) Procedural History

3:14cr117

A) on August 19, 2014 defendant was named in 1 count Indictment filed in the Southern District of Mississippi and was sentenced to serve 181 months.

Defendant pled guilty to 21 U.S.C § 846 conspiracy to posses with intent to distribute 50 grams or more of methamphetamine, since the date of his arrest, Defendant has served over 9 years of his sentence.

2) Reasoning and legal standard for seeking "Kani" Departure for substantial hardship.

Conditions of living under covid-19 are bizarre, difficult and very torturous, F.S.A provides courts opportunity to correct unjust sentences and restore fairness to the federal sentencing.

Defendant has made several attempts to the court about the hardship that covid-19 has made every 24 hours feel like 48 hours to get through. F.S.A (first step Act) Authorizes courts to "on motion of the defendant... Impose a ~~reduced~~ sentence. First step Act should therefore be taken into consideration all the changes to the federal Sentencing scheme that has occurred since a petitioners sentence. Sentencing factors that explicitly refer to § 846(b) and 841(a)(1) the statutory penalties were modified by the f.S.A. Defendants criminal history was altered and his criminal history category landed him on range with other defendants with prior felony's and worst criminal history. Defendant would not be subject to the increase in his total offence level and criminal history category. In turn his guideline range would be greatly reduced likely causing the court to impose a sentence well below 181 months, under the guidelines today. "The commission amended the text of the Guidelines to remove the impose sentence if justifiable."

To date Inmate Pernillo a non-violent offender has served more than 9 years imposed by this court following his conviction, nevertheless having to serve this time under Covid-19 Pandemic was very hard and the hardship it causes defendant to suffer through constant Anxiety, Defendant while in custody of B.O.P has also suffered from a torn miniscus that been postponed for 3 years this injury happened while been shackled from feet and feet on Air lift coming down Airplane stairs and now years later suffers from internal pain and is still waiting surgery.

The B.O.P has a division of classes of inmates charged with violation of the U.S federal law where one group of inmates are provided better care security, and medical and proper rehabilitation programs than those segregated with diminished care and provisions, The federal government has not fully represented the core values of this country against individual discrimination on basis of race, color, sex and nationality.

The court shall impose a sentence of the kind, and within the range referred to in subsection (a)(4) unless the court finds that there exist aggravating or mitigating circumstances of a kind or to a degree not taken into account by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described in determining whether a circumstance was adequately taken into consideration. The United States — vs — #42 S. Ct 2389 2404 (2022) "that the first step act" allows district courts to consider intervening changes of law or fact in exercising their discretion to reduce a sentence pursuant to the first step act. If Defendant under Apprendi and Alleyne this court would be bound by the statutory minimum penalties provided by 21 U.S.C. § 841(a)(1) he would only be sentenced to a mandatory minimum. "The need to avoid unwarranted sentence disparities".

Conclusion

Under the totality of circumstances presented here in and as a result of the undue substantial Warrants a finding that demonstrates that aggravating or mitigation that demonstrates circumstances exist in defendant's case.

Notwithstanding his circumstances and harsh conditions of his confinement, MR. Pernillo has maintained an extraordinary positive outlook and attitude and has sought to improve him self to the utmost extent possible.

MR. Pernillo studied hard and obtained his G.E. D. Id. in a word MR. Pernillo has well developed record of rehabilitation, In addition to his educational and rehabilitative accomplishments- MR. Pernillo has worked at what amounts to a full Time Job in the last 3 years in commissary department. Therefore, Defendant respectfully request this honorable court to grant his motion on the reasons and legal standards clearly laid out in the preceding paragraphs to be granted.

Respectfully Submitted.

Walter Pernillo 68141-112

F.C.I Victorville #1 P.O BOX 3727 Adelanto, CA
92301

Certificate of Service

I Walter Pernillo the undersigned and defendant hereby certifies that the foregoing instrument "motion for departure" was placed in this prison internal mail system on this day 8-1-2023 to be sent via U.S.P.S to the clerk of the court, United States district court of the Southern District of Mississippi.

Defendant also request that the court clerk serve copies of this motion to Assistant United States Attorney of record via electronic notification

Respectfully submitted

Walter Pernillo
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